



MARTIN O'MALLEY
GOVERNOR

STATE HOUSE
100 STATE CIRCLE
ANNAPOLIS, MARYLAND 21401-1925
(410) 974-3901
(TOLL FREE) 1-800-811-8336

TTY USERS CALL VIA MD RELAY

February 17, 2012

Michele Merkel
Food & Water Watch
1616 P St., NW, Ste. 300
Washington, DC 20036

Dear Ms. Merkel:

I write in response to your letter of November 22, 2011, follow up December 13, 2011 and January 4, 2012 emails, and our phone conversation in which you requested certain records under the Public Information Act, Annotated Code of Maryland, State Government Article (“SG”), §10-611 et seq.

As we have discussed, State law entitles you to two free hours of “search and preparation” of records. Maryland Annotated Code, State Government Article, § 10-621. After two free hours in search for and preparation of the records, I previously provided you a cost estimate of an additional three hours of my time (\$87.76/per hour) and two hours of my legal assistant’s time (\$39.75/per hour). The total cost for the response to your request is \$342.78. Please reimburse the state this cost by sending a check, payable to the State of Maryland, to Office of Legal Counsel, 21 State Circle, Annapolis, MD 21401.

You may contact Mary Pollock of this office, at (410) 974-3005, in order to schedule a time to review the responsive records that are subject to disclosure under the PIA. At the time that you review the records, you may make copies of any of the records you would like to keep.

The documents you are requesting are being made available to you subject to certain redactions. First, the documents have been redacted in ways unrelated to the substance of the emails to preserve the privacy of the email accounts and cell phone numbers of the involved parties. The names of the parties have remained unredacted so that you can still identify the senders and recipients of the emails.

Second, there is a redaction in one mail chain (January 18, 2011) that contains information that is unrelated to the transaction of public business and is not a public record. See State Gov’t 10-611(g); Office of Governor v. Washington Post Co., 360 Md. 520 (2000). Because there is information related to the transaction of public business at the end of the email, that portion of the email will be made available for inspection and the portion unrelated to the transaction of public business has been redacted.

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Third, there is one redaction of a section of an email chain (November 11, 2011) that meets the criteria of §10-618(b) of the Act. This record is an internal email chain between Governor O'Malley and his Chief of Staff that is subject to executive privilege and contains deliberative communications created for the purpose of assisting and advising the Governor regarding future decisions. Again, because there is non-privileged information in other sections of the email chain, the portion of the email chain that is privileged has been redacted and the remainder of the email chain will be made available for inspection.

Fourth, there are redactions that contain confidential commercial information of Perdue and inspection must be denied pursuant to §10-617(d) of the Act. Specifically, this redacted information relates to ongoing business negotiations involving Perdue and third parties. All remaining substantive redactions in the emails fall within this category.

You are entitled to judicial review of this response pursuant to § 10-623 of the Public Information Act.

Sincerely,



Elizabeth F. Harris
Chief Legal Counsel